

**RECORD OF PROCEEDINGS OF THE GOVERNING BODY  
CITY OF GARDNER, KANSAS**

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June 7, 2021

The City Council of the City of Gardner, Kansas met in regular session on June 7, 2021, at 7:00 p.m. in the Council Chambers at Gardner City Hall, 120 East Main Street, Gardner, Kansas, with the Mayor Steve Shute presiding. Present were Councilmembers Todd Winters, Mark Baldwin, Kacy Deaton, Randy Gregorcyk, and Tory Roberts. City staff present were City Administrator James Pruetting; Deputy City Administrator Amy Nasta; Finance Director Matthew Wolff; Police Chief James Belcher; Parks and Recreation Director Jason Bruce; Community Development Director David Knopick; Public Works Director Kellen Headlee; City Attorney Ryan Denk; and City Clerk Sharon Rose. Others present included those listed on the sign-in sheet and others who did not sign in.

**CALL TO ORDER**

There being a quorum of Councilmembers present, Mayor Shute called the meeting to order at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

Mayor Shute led those present in the Pledge of Allegiance.

**PRESENTATIONS**

**PUBLIC HEARINGS**

Bond Counsel Tyler Ellsworth, Kutak Rock, provided background on the two public hearings. The hearings are regarding adding area to the Main Street Market Place CID and TIF districts. The city put the districts in place in 2018 and 2019 in connection with the development of the new Price Chopper. The district includes Price Chopper and the existing in line retail shops on Moonlight and pad sites. Freddy's restaurant is going in on two separate parcels. The parcels straddle the TIF district and CID boundary. The council is being asked to consider adding the former Casey's parcel to both the TIF district and the Community Improvement District.

**1. Hold a public hearing on the proposed amendment to a Community Improvement District within the City of Gardner, KS (Main Street Market Place)**

Councilmember Gregorcyk made a motion to open a public hearing for the purpose of receiving public comments on the proposed amendment to a Community Improvement District within the City of Gardner, KS (Main Street Market Place)

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

No members of the public came forward.

Councilmember Winters made a motion to close the public hearing

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

**2. Hold a public hearing on the proposed amendment to a Redevelopment District within the City of Gardner, KS (Main Street Market Place)**

Councilmember Baldwin made a motion to open a public hearing for the purpose of receiving public comments on the proposed amendment to a Redevelopment District within the City of Gardner, KS (Main Street Market Place)

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

No members of the public came forward.

Councilmember Gregorcyk made a motion to close the public hearing

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Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

**PUBLIC COMMENTS**

Dennis Watson, 670 S. Mulberry, shared a phrase from a book: a man without protection or control is like a city without walls. Conversely, a city without protection or control is like an uncontrolled man. He sees that this city is protected. The city council provides protection for the city. Ancient cities had walls; the elders or city council sat at the gates and controlling what goes in and out. Hands and feet of the council are police, fire and city services. There's talk around the country about defunding; he opposes that. His wife fell on the concrete two weeks ago, with a possible head injury. He called 911 and they were quick to arrive, highly efficient, very courteous. He was very pleased with service. He thanked the city for excellent service.

Fred Wingert, 20920 Walmer St., Bucyrus, requests the governing body consider revising billboard statutes. Currently, the city prohibits additional billboards along I-35. He and his wife operate a billboard company. Going south out of Olathe to Wellsville, there is a limited amount of billboards on the interstate. His company operates two billboards across from Walmart that are in Johnson County. His company gets requests from businesses in Gardner, especially service and travel related businesses. Wingert is in contact with two new developments coming in. Tens of thousands of people drive by on I-35 every week. He is not asking for a proliferation of billboards. Reasonable limits make sense, like spacing, distance from intersections, only allowed on commercial or industrial properties. He met with planning staff and is now asking the governing body for consideration.

**CONSENT AGENDA**

1. **Standing approval of the minutes as written for the regular meeting on May 17, 2021**
2. **Standing approval of City expenditures prepared May 12, 2021 in the amount of \$7,771.49; May 14, 2021 in the amount of \$826,292.63; May 18, 2021 in the amount of \$3,000.00; May 19, 2021 in the amount of \$1,997.00; May 21, 2021 in the amount of \$1,656,158.71; May 21, 2021 in the amount of \$39,843.24; May 27, 2021 in the amount of \$153,318.27; and May 27, 2021 in the amount of \$168,080.93**
3. **Consider an appointment to the Economic Development Advisory Committee**
4. **Consider authorizing the execution of an inter-local agreement with Johnson County for on-call building services**
5. **Consider authorizing an amendment to the agreement with IBTS to include ad hoc building services**
6. **Consider authorizing a contract with Renaissance Infrastructure Consulting for construction inspection services on the Moonlight Safe Routes to School project**
7. **Consider authorizing the execution of a contract with H.W. Lochner, Inc. for consulting services for Airport Business and Economic Development Plan**

Councilmember Deaton made a motion to approve the Consent Agenda.

Councilmember Gregorcyk Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

**PLANNING & ZONING CONSENT AGENDA**

1. **Consider accepting the dedication of right-of-way and easements on the final plat for Prairie Trace Estates, 2<sup>nd</sup> Plat**
2. **Consider accepting the dedication of right-of-way and easements on the final plat for Prairie Trace Meadows, 2<sup>nd</sup> Plat**

Councilmember Deaton made a motion to approve the Planning & Zoning Consent Agenda.

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Councilmember Winters Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

**COMMITTEE RECOMMENDATIONS**

**1. Consider authorizing the purchase of Quick Valve Startup Kit & Sleeves equipment from Olathe Winwater**

Utilities Manager Jeff LeMire said staff received three estimates for quick valve startup kit and sleeves. The Olathe Winwater bid came in at \$49,925. This includes parts and training for line staff.

Councilmember Gregorcyk supports this purchase. This tool is a good resource.

Mayor Shute noted the other two companies who bid, and said they were over \$5,000 higher. Staff did due diligence.

Councilmember Gregorcyk made a motion to authorize the purchase of Quick Valve Startup Kit & Sleeves equipment from Olathe Winwater in an amount not to exceed \$49,925.00.

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

**OLD BUSINESS**

**NEW BUSINESS**

**1. Consider adopting an ordinance authorizing the addition of area to the Main Street Market Place Community Improvement District and amending Ordinance No. 2601**

Finance Director Matt Wolff said the first two items are related to the public hearings. They heard the presentation, and staff recommends passing ordinances.

Councilmember Deaton made a motion to adopt an ordinance authorizing the addition of area to the Main Street Market Place Community Improvement District in the City of Gardner, Kansas, and amending Ordinance No. 2601 of the City (Main Street Market Place CID)

Councilmember Winters Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2703.

Gregorcyk:	Yes
Roberts:	Yes
Baldwin:	Yes
Deaton:	Yes
Winters:	Yes

**2. Consider adopting an ordinance adding area to a redevelopment district within the city and amending Ordinance No. 2588**

Councilmember Deaton made a motion to adopt an ordinance adding area to a redevelopment district within the City of Gardner, Kansas, pursuant to K.S.A. 12-1770 et seq., as amended and amending Ordinance No. 2588 of the City (Main Street Market Place Redevelopment District)

Councilmember Baldwin Seconded.

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With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2704.

Roberts:	Yes
Baldwin:	Yes
Deaton:	Yes
Winters:	Yes
Gregorcyk:	Yes

**3. Consider adopting a resolution providing notice of a public hearing to consider an amended redevelopment project plan for a redevelopment district as amended (Main Street Market Place Redevelopment District, Project Area 1)**

Finance Director Matt Wolff said this is related to the Freddy's property. This is in relation to the TIF project plan. This resolution would set a public hearing for July 19, 2021.

Councilmember Gregorcyk asked if the east side of the proposed addition would connect to QuikTrip. Shute confirmed, and it provides access to the eastern parcel if something develops there. Gregorcyk said the entry on the west side of QuikTrip that intersects with east/west Price Chopper road doesn't have a stop sign. This adds more traffic to a small area. Are there traffic concerns? Director Knopick said there was a traffic study done and there is a shared access agreement with the two properties. The Freddy's layout has been approved as per the traffic study, but there may some changes. Shute said they are using that road as a through street. That's the way it was designed. Baldwin asked if it was evaluated going north/south. Knopick said they evaluated several options. The design has been approved with developer's engineers. Freddy's designers have been looking for efficiencies for circulation, and could make changes before bringing the final plan back to the Planning Commission. This focus is on the CID and TIF areas.

Councilmember Gregorcyk made a motion to adopt a resolution of the City of Gardner, Kansas, providing for notice of a public hearing to consider an Amended Redevelopment Project Plan for a Redevelopment District within the City pursuant to K.S.A. 12-1770 et seq., as amended (Main Street Market Place Redevelopment District, Project Area 1)

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2083.

Baldwin:	Yes
Deaton:	Yes
Winters:	Yes
Gregorcyk:	Yes
Roberts:	Yes

**4. Consider a resolution declaring the intent of the City to issue Industrial Revenue Bonds for the purpose of financing a portion of the costs of the acquisition, construction and equipping of one or more phases of a multifamily apartment project**

Finance Director Matt Wolff said the city received an application from Tallgrass Apartments for the use of Industrial Revenue Bonds to finance a portion of one or multiple phases of its multifamily apartment project. This financing would provide the developer with an avenue to get a sales tax exemption on construction materials. When they put in the request, staff considered the amenities the development would include. The development is including amenities that represent a significant private investment into the property that adds value to the development beyond the minimum requirements. IRB bonds are paid solely out of the rentals, revenues, and receipts derived from the lease of the project. They won't go back on the city.

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Councilmember Gregorcyk asked how this would work with the new Senate Bill 13. Mayor Shute said that's property tax. The assessed valuations will be captured, but they are not giving a property tax abatement. Director Wolff said IRBs can be used for property tax abatement, but the developer is not requesting those.

Councilmember Deaton made a motion to adopt a resolution declaring the intent of the City of Gardner, Kansas, to issue Industrial Revenue Bonds (taxable under federal law), in one or more series in the aggregate principal amount not to exceed \$37,900,000 for the purpose of financing a portion of the acquisition, construction and equipping of one or more phases of a multifamily apartment project within the City (Tallgrass Apartments)

Councilmember Winters Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2084.

Deaton:	Yes
Winters:	Yes
Gregorcyk:	Yes
Roberts:	Yes
Baldwin:	Yes

**5. Consider adopting an ordinance adjusting special assessments on certain lots, pieces and parcels of land within the Plaza South Special Benefit District**

Finance Director Matt Wolff said On October 21, 2019, the City Council approved Ordinance No. 2629, levying max assessments of \$1,300,000 for improvements in connection with the Plaza South Special Benefit District. The improvements are now complete and the final costs are less than the amount used to calculate the maximum assessments levied in Ordinance No. 2629. It is necessary to reduce the assessments levied to an amount equal to the final costs of the improvements, valued at \$930,000.

Councilmember Roberts made a motion to adopt an ordinance adjusting special assessments on certain lots, pieces, and parcels of land in the City of Gardner, Kansas, all pursuant to K.S.A. 12-6a01 et seq., and amending Ordinance No. 2629 of the City (Plaza South Special Benefit District)

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2705.

Winters:	Yes
Gregorcyk:	Yes
Roberts:	Yes
Baldwin:	Yes
Deaton:	Yes

**6. Consider adopting an ordinance adjusting special assessments on certain lots, pieces and parcels of land within the Waverly Plaza Special Benefit District**

Finance Director Matt Wolff said On November 18, 2019, the City Council approved Ordinance No. 2633, levying max assessments of \$1,953,000 for the developer's share of the costs of improvements in the Waverly Plaza Special Benefit District. The improvements are now complete and the final costs are less than the amount used to calculate the maximum assessments levied in Ordinance No. 2633. It is necessary to reduce the assessments levied to an amount equal to the developer's share of the final costs of the improvements, valued at \$1,677,720.

Councilmember Gregorcyk said it appears the project will be underway. City Administrator Pruetting said the developers are making progress, and plan to start late summer or early fall.

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Councilmember Deaton made a motion to adopt an ordinance adjusting special assessments on certain lots, pieces and parcels of land in the City of Gardner, Kansas, all pursuant to K.S.A. 12-6a01 et seq., and amending Ordinance No. 2633 of the City (Waverly Plaza Special Benefit District)

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2706.

Gregorcyk:	Yes
Roberts:	Yes
Baldwin:	Yes
Deaton:	Yes
Winters:	Yes

**COUNCIL UPDATES**

Director Bruce said staff began filling lazy-river side of the pool over the weekend. They will test pumps and filters and begin balancing throughout the week. They plan to open this weekend. Bruce thanked staff who have been working on this for the last several weeks. Councilmember Winters asked about lifeguard staffing. Bruce said they are up to about 65, and the aquatic supervisor is comfortable with staffing levels. Councilmember Roberts appreciated staff work on all the last minute changes. Shute asked about budget. Director Wolff said the revised budget will reflect changes.

Director Knopick canceled June EDAC meeting, rescheduled to July 21. They will have a presentation by the Destination Downtown consultant. He noted he will be absent at the next council meeting. Mayor Shute asked about the billboard ordinance. Knopick said there are several routes. They can be initiated by staff, by Planning Commission, or by governing body consensus. If they initiate, staff will need direction. They can research, look at other communities' ordinances, and evaluate the proposal from Mr. Wingert. Land Development Code changes require a public hearing through Planning Commission before moving to the governing body. Shute clarified it would be for both electronic and static billboards. Knopick said they could consider both. There are standards that KDOT predicates along state roadways. City Attorney Denk said the city's code and state statute don't define type of action, but that the Planning Commission or governing body should initiate a text amendment by motion. The code provision that precludes billboards is GMC 17.10.05. KDOT has regulations, and they won't consider an application until local zoning is in place. Knopick noted that KDOT standards are minimum standards; the city can be more restrictive than KDOT. The property must be zoned commercial or industrial to get KDOT approval. The city may restrict that further by defining specific commercial or industrial districts. Knopick said it will be referred to as "off-site advertising". Shute said reasonable and limited advertising is beneficial to the community. Knopick noted they will not be able to regulate content or messaging. Baldwin said they could restrict what types of businesses that get it, i.e. Gardner businesses. Knopick didn't believe so. Baldwin said if they can't control the content, then it's open to the free market. He doesn't want it to look like I-70. Knopick said they would address that with spacing and size requirements. Councilmember Gregorcyk asked Wingert what the setbacks are off the highway. Wingert recommends spacing back from intersection. Where the highway widens, go back 500 feet. He keeps distance from cemeteries, schools and zoned residential. Wingert's company doesn't advertise any content that is considered distasteful or adult content. Gregorcyk asked what the distance is from one sign to the next. Wingert said electronic boards are recommended to be 1000-1200 feet. Billboards are 600-650 feet. Gregorcyk said they have interest to put them further south on NB I-35. Wingert said there is one property owner there who is interested. It's limited to those property owners who want to participate, and only a certain number of properties are zoned commercial. Gregorcyk asked if it is parallel to LPKC. Wingert said if restrictions were met, they could. Gregorcyk noted his support. Councilmember Winters asked if this is a blanket for anyone who wants to put a billboard up. Pruetting said, in addition to zoning, they discussed having a minimum highway frontage, and there are only 2-3 properties eligible. Knopick said the key is gaining approval and direction. They will incorporate the KDOT minimum standards. Shute noted they can make standards more restrictive, less billboards per mile.

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Gregorcyk supports this on commercial/ industrial property. Shute said they need to ask what is the tangible benefit to the city for doing this. The reason for billboards is to encourage people to impulse stop. There's a lot of opportunity for business to advertise close to Gardner. Gregorcyk said the new QuikTrip would benefit and the city collects sales tax. Pruetting asked for a motion to initiate the process.

Councilmember Gregorcyk made a motion to authorize the City Administrator to initiate the process of modifying the Land Development Code to accommodate fixed signage/billboards in the city.

Councilmember Winters Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

Councilmember Baldwin asked staff to consider long-term effects and unintended consequences. Properties are limited now, but that can change. Knopick said they would consider proposed land development pattern as well. Shute noted they will have a frontage road along east side of interstate as well. Gregorcyk asked, based on development and progress, does the company sell/tear down/relocate billboards? Wingert said the value of property is so high, there's no property owner that wouldn't keep the ultimate right that the sign would go away if needed.

Chief Belcher said they have an opening on the CPAC. Mayor Shute encouraged residents to apply.

Director Wolff said he will have a budget presentation at the next meeting. He will provide an update on revenues, and present some budget requests for council consideration. The city's independent auditor will also present their report on fiscal year 2020.

City Administrator Pruetting transitioned remote staff back into the building. New offices are being constructed; departments are moving. Shute noted changing UT billing and Parks. Pruetting said changes were being made to be more efficient. Gregorcyk asked what the opinion of staff is. Pruetting said some are happier than others. They addressed both efficiencies and additional growth. Gregorcyk asked what space they have for growth. Pruetting said they have room for everyone for the next few years. There is additional space in the Justice Center. Shute said there's potential in 10 years to add another building by Justice Center.

Councilmember Gregorcyk thanked Pruetting for supporting the mowing at 175h and Waverly. Gregorcyk met with Fire Chief Kirk regarding overhead barrier. They discussed signage and fees. He then asked staff if they can double the fines for trucks using Cherokee. Staff are looking into it and will bring it back before council. Shute said 191<sup>st</sup> is closed, and there's a detour up to 183<sup>rd</sup>. Belcher said PD are stepping up their efforts. Invite everyone out to the Johnson County fire board meeting tomorrow at New Century at 7pm.

Councilmember Roberts said she was asked about not wearing a mask during the last council meeting. She is fully vaccinated and feels comfortable. She does supports social distancing and mask wearing when necessary.

Shute said the EDAC meeting in July will be talking about Destination Downtown. They will explore the vision for the core. They have the plans, now they'll talk about practice. Knopick noted the location has not been set yet.

Gregorcyk asked for an update on the sidewalk north of 175<sup>th</sup> and west of Waverly. Pruetting said the bid opening is later this summer.

Councilmember Winters asked about the new Santa Fe Street where it connects to 56 Hwy. It has been torn up. Pruetting said they are doing design work to fix it.

**EXECUTIVE SESSION**

**ADJOURNMENT**

There being no further business to come before the Council, on a motion duly made by Councilmember Deaton and seconded by Councilmember Baldwin the meeting adjourned at 8:03 p.m.

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City Clerk